



June 29, 2018

SUBMITTED ELECTRONICALLY

National Freedom of Information Officer
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW (2822T)
Washington, DC 20460
(202) 566-1667

Re: Freedom of Information Act Request for Records Concerning EPA Directives on National Ambient Air Quality Standards Process and Contacts with Tony Cox

Dear National Freedom of Information Officer:

Environmental Defense Fund (“EDF”) respectfully requests records, as that term is described at 5 U.S.C. § 552(f)(2) of the Freedom of Information Act (“FOIA”), of the U.S. Environmental Protection Agency (“EPA” or the “Agency”).

- 1) Specifically, EDF requests all records sent to staff within EPA’s Office of Air and Radiation (“OAR”), Office of Air Quality Planning and Standards (“OAQPS”), Office of Research and Development (“ORD”), or the National Center for Environmental Assessment (“NCEA”) regarding the standard-setting process for the Clean Air Act’s National Ambient Air Quality Standards (“NAAQS”) program from any of the following record custodians:
 - Dr. Richard Yamada (EPA-ORD),
 - Nancy B. Beck (EPA-OCSPP), or
 - Clint Wood (EPA-OAR).
- 2) EDF also requests all correspondence between Louis Anthony “Tony” Cox (Denver-based consultant, CASAC chair, and Chartered SAB member) and EPA record custodian Clint Wood (EPA-OAR).

EDF seeks all records produced, modified, or transmitted beginning on February 1, 2018, through June 26, 2018. Responsive records include hard-copy and electronic communications including, but not limited to, emails, voice mails, text messages, and communications transmitted through any other electronic platform. If any of the information sought in this request is deemed by EPA to be properly withheld under a FOIA exemption, 5 U.S.C. § 552(b), please provide

EDF with an explanation, for each such record or portion thereof, sufficient to identify the record and the particular exemption(s) claimed.

Request for Expedited Processing

EDF respectfully seeks expedited processing pursuant to 5 U.S.C. § 552(a)(6)(E)(i) and 40 C.F.R. § 2.104(e)(1)(ii), which applies when there is “[a]n urgency to inform the public about an actual or alleged Federal government activity, if the information is requested by a person primarily engaged in disseminating information to the public.” With respect to at least five other FOIA requests, EPA recently recognized EDF’s eligibility for expedited processing on this basis.¹

EDF engages in extensive, daily efforts to inform the public about matters involving environmental policy. For example, EDF has multiple channels for distributing information to the public, including through direct communication with its more than 2 million members, press releases, blog posts, active engagement on social media, and frequent appearances by staff in major media outlets.² EDF also has the expertise to disseminate these records in a rigorous and accessible manner. We have long been actively involved in providing public information regarding EPA’s implementation of our nation’s foundational, health-based NAAQS program.³

Expedited processing is further warranted due to the time-sensitive nature of these records. EPA’s Memorandum “Back-to-Basics Process for Reviewing the National Ambient Air Quality Standards” (May 9, 2018), created significant uncertainty about the Agency’s plans for moving forward with the ozone and PM NAAQS by upsetting EPA’s longstanding legal interpretations concerning what factors are permissible for the Clean Air Scientific Advisory Committee (“CASAC”) to consider during the standard-setting process. Earlier this week, on June 26, 2018, EPA published two notices in the Federal Register⁴ opening the public comment periods for the

¹ See Letter from Larry F. Gottesman (EPA) to Benjamin Levitan (EDF) re: Request Tracking Number EPA-HQ2017-003545 (Feb. 23, 2017); Letter from Larry F. Gottesman (EPA) to Benjamin Levitan (EDF) re: Request Tracking Number EPA-HQ-2017-005587 (Apr. 12, 2017); Letter from Larry F. Gottesman (EPA) to Benjamin Levitan (EDF) re: Request Tracking Number EPA-HQ-2017-008622 (July 7, 2017); Letter from Larry F. Gottesman (EPA) to Benjamin Levitan (EDF) re: Request Tracking Number EPA-HQ-2017-009283 (July 13, 2017); Letter from Larry F. Gottesman (EPA) to Benjamin Levitan (EDF) re: Request Tracking Number EPA-HQ-2017-009579 (July 26, 2017).

² See, e.g., EDF Blogs, <https://www.edf.org/blog> (last visited May 16, 2018); EDF (@EnvDefenseFund) Twitter (May 16, 2018) <https://twitter.com/EnvDefenseFund>; EDF Reports and Publications, <https://www.edf.org/docs> (last visited May 16, 2017).

³ See, e.g., Press Release, EDF, EDF Calls on EPA to Protect Americans from Smog by Quickly Finalizing Area Designations (February 7, 2018), <https://www.edf.org/media/edf-calls-epa-protect-americans-smog-quickly-finalizing-area-designations>; Rachel Fullmer, EDF Blog: EPA refuses to act on smog pollution. Here’s what’s at stake (October 23, 2017), http://blogs.edf.org/climate411/2017/10/23/epa-refuses-to-act-on-smog-pollution-heres-whats-at-stake/?_ga=2.61567396.909581121.1526412590-181776178.1522863190; Press Release, EDF, New Attacks on Smog Safeguards Launched Just As a New Health Study Underscores the Dangers of Smog (June 30, 2017) <https://www.edf.org/media/new-attacks-smog-safeguards-launched-just-new-health-study-underscores-dangers-smog>; Press Release, EDF, EDF Experts Testify About the Need for Stronger Health Protections from Smog (January 29, 2015) <https://www.edf.org/media/edf-experts-testify-about-need-stronger-health-protections-smog>.

⁴ EPA, Review of the National Ambient Air Quality Standards for Ozone-Call for Scientific and Policy-Relevant Information, 83 Fed. Reg. 29,785 (June 26, 2018) *available at* <https://www.federalregister.gov/documents/2018/06/26/2018-13716/review-of-the-national-ambient-air-quality->

proposed changes to the NAAQS process. These public comment periods now close in less than 59 days and 117 days, respectively. Expeditionary production of the requested records would provide the public with a concrete indication of how the EPA intends to carry out these proposed changes in the ongoing and upcoming NAAQS reviews—a matter of critical importance given the immense public health benefits tied to the NAAQS program and the short public comment window the Agency provided to consider these changes.

Request for Fee Waiver

As a nonpartisan, nonprofit organization that provides information that is in the public interest, EDF respectfully requests a waiver of fees associated with this request. We are not seeking information for any commercial purpose and the records received will contribute to a greater public understanding of issues of considerable public interest: future implementation of America's foundational health-based ambient air quality standards. 5 U.S.C. § 552(a)(4)(A)(iii). EDF is well positioned to disseminate the records to the public, as we routinely issue press releases, action alerts, reports, analyses, and other public outreach materials. We also have considerable expertise in this area, having submitted administrative comments and expert analysis into the rulemaking dockets for the 2015 ozone NAAQS and as part of many previous NAAQS rulemaking efforts, and participated in the lawsuit that gave rise to EPA's court-ordered April 30, 2018 deadline to finalize area designations for the 2015 ozone NAAQS.⁵ We are well-qualified to present the records to the public in a manner that clearly conveys their value, and we fully intend to disseminate newsworthy information received in response to this request. Accordingly, we respectfully request that the documents be furnished without charge.

For ease of administration and to conserve resources, we will accept documents produced in a readily accessible electronic format. In the event EDF's request for a fee waiver is denied or if you have any questions about this request, please contact me immediately by telephone at (303) 447-7208 or by email at rfullmer@edf.org.

Respectfully submitted,

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[standards-for-ozone-call-for-scientific-and](#); EPA, Call for Information on Adverse Effects of Strategies for Attainment and Maintenance of National Ambient Air Quality Standards, 83 Fed. Reg. 29,784 (June 26, 2018) available at <https://www.federalregister.gov/documents/2018/06/26/2018-13718/call-for-information-on-adverse-effects-of-strategies-for-attainment-and-maintenance-of-national>.

⁵ U.S. District Court for the Northern District of California, Case 4:17-cv-06936-HSG.